

## Internal Revenue Service

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Date:  
February 24, 2009

### LEGEND:

University =  
Denomination =

Dear \_\_\_\_\_:

This is in reply to a letter from your authorized representative regarding a private letter ruling issued to you on October 18, 2007 (PLR 200803008). The private letter ruling addressed whether \_\_\_\_\_ is an integral agency of the Denomination within the meaning of Treas. Reg. §1.1402(c)-5(b)(2) such that rental allowances paid to faculty, managers, executives, or administrators who are ordained, licensed or commissioned ministers employed by the University can be excluded from gross income under Section 107. You requested a clarification in the first full paragraph preceding the CONCLUSION to conform the language in this paragraph to language in the CONCLUSION, which does not limit the application of section 107 to ministers ordained, licensed or commissioned by the Denomination. This ruling modifies and supersedes PLR 200803008.

### FACTS

The University was founded in \_\_\_\_\_ and named in honor of a minister who pioneered the \_\_\_\_\_ movement and founded the Denomination. In \_\_\_\_\_, the University officially became the western regional school of the Denomination. In \_\_\_\_\_, at the instigation of the Denomination, the University reincorporated in a different state where it currently resides; that year, it also began granting bachelor's degrees. In \_\_\_\_\_, the University began offering professional studies; in \_\_\_\_\_, it added graduate studies and degree programs. The University teaches all subjects from a Biblical perspective and its graduate program prepares students for positions as pastors, missionaries, and other religious posts. Ordained, commissioned, or licensed ministers of the Denomination

teach and serve in various executive, management, or administrative positions at the University.

The University is incorporated as a tax-exempt organization for federal tax purposes. The University's Articles of Incorporation indicate that some of its principal purposes are to "support and extend the ministry of the church Jesus Christ" and "develop a strong education foundation program designed to build a Christian mind and character."

The Bylaws of the University provide that the University's Board of Trustees ("Board") may consist of 26, 27, or 28 trustees. The Denomination appoints 15 members (i.e., a majority) to the Board. A trustee may be removed by a majority of the Board, but not by the Denomination directly. The University's President is also a member of the Board and must be approved as president by the Board of Directors of the Denomination.

Any amendment to the Bylaws of the University requires approval by a majority, plus one, of the Board. The Denomination approves all amendments to the University's Articles of Incorporation, Bylaws, and mission statement.

The University is required to adopt and abide by the Denomination's Statement of Faith. The University's trustees and employees are not required to be members of the Denomination; however, all are required to adhere to the Denomination's Statement of Faith and to offer to resign if they no longer agree with it. The University employs ministers ordained by the Denomination in faculty, executive, management, and administrative positions. The University also employs ordained, commissioned, and licensed ministers who are ordained by other tax-exempt religious organizations.

The University's Articles of Incorporation provide that if the University were to cease operations, dissolve, or terminate its affiliation with the Denomination without permission from the Denomination, the University's property would become property of the Denomination.

The University's finances are subject to supervision by the Denomination. The University is required to provide annual reports, financial statements, and annual audits to the Denomination. During the fiscal years of \_\_\_\_\_, the University received aggregate contributions from the Denomination totaling 12.8% of the total gifts it received during that period.

#### APPLICABLE LAW AND ANALYSIS

Section 107 provides that in the case of a "minister of the gospel", gross income does not include (1) the rental value of a home furnished to him as part of his compensation, or (2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a

garage, plus the cost of utilities. Section 1.107-1(a) of the Income Tax Regulations (regulations) provides that:

In order to qualify for the exclusion, the home or rental allowance must be provided as remuneration for services which are ordinarily the duties of a minister of the gospel. In general, the rules provided in section 1.1402(c)-5 will be applicable to such determination. Examples of specific services the performance of which will be considered duties of a minister for purposes of section 107 include the performance of sacerdotal functions, the conduct of religious worship, the administration and maintenance of religious organizations and their integral agencies, and the performance of teaching and administrative functions at theological seminaries.

Consistent with the section 107 regulations, section 1.1402(c)-5(b)(2) provides that service performed by a minister in the exercise of his or her ministry includes: 1) the ministration of sacerdotal functions; 2) the conduct of religious worship; and 3) the control, conduct and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations) under the authority of a religious body constituting a church or church denomination.

Section 1.1402(c)-5(b)(2)(ii) of the regulations provides that service performed by a minister in the control, conduct and maintenance of a religious organization relates to directing, managing, or promoting the activities of such organization. This section also provides that any religious organization is deemed to be under the authority of a religious body constituting a church or church denomination if it is organized and dedicated to carrying out the tenets and principles of a faith in accordance with either the requirements or sanctions governing the creation of institutions of the faith. The term "religious organization" has the same meaning and application as is given to the term for income tax purposes.

Section 1.1402(c)-5(b)(2)(iv) of the regulations provides in relevant part that if a minister is performing service for an organization which is operated as an integral agency of a religious organization under the authority of a religious body constituting a church or church denomination, all service performed by the minister in the control, conduct, and maintenance of such organization is in the exercise of his ministry.

In Rev. Rul., 62-171, 1962-2 C.B. 39, the Service held that ordained ministers of the gospel who teach or have positions involving administrative and overall management duties in parochial schools, colleges or universities which are integral agencies of religious organizations under the authority of a religious body constituting a church or

church denomination are in the performance of their duties as ministers of the gospel for purposes of section 107 of the Code.

In Rev. Rul., 70-549, 1970-2 C.B. 16, the Service held that an ordained minister who was serving as chairman of the department of education of a college that was held to be "in practice" an integral agency of a church, and any minister serving on the faculty of the college as a teacher or administrator, was performing service "in the exercise of his ministry" within the meaning of Sections 1.107-1 and 1.1402(c)-5 of the Income Tax Regulations. The Service held that the college was "in practice" an integral agency of a church. Although the church lacked a central governing body, the college was most rigidly and continuously governed and controlled by a board of directors who were, in turn, under the control of the elders of the church. The requirement in the college charter that each director be a member in good standing of a congregation of the church was found to be a method of indirect control. Similarly, every teacher was required to be a member of the church in good standing, and most students were members of the church. All subjects taught at the college were taught with emphasis on religious principles.

In Rev. Rul., 71-7, 1971-1 C.B. 282, the Service furnished guidance concerning whether a duly ordained minister, who is employed as a member of the faculty of a church-related college and whose duties do not include the conduct of religious worship or the ministration of sacerdotal functions, is performing services as a "minister of a church in exercise of his ministry." Rev. Rul. 71-7 provides that, in considering whether a minister serving on the faculty of a college is performing services in the exercise of his ministry, it is necessary to determine (a) whether the college employing him is itself a religious organization under the authority of a religious body constituting a church or church denomination or, (b) if the college is not such a religious organization, whether the college is operated as an integral agency of such a religious organization. The Service concluded that the college is an integral agency of a state convention of churches and that the state convention of churches is a religious organization under the authority of a religious body constituting a church or church denomination. Thus, the services performed by the ministers as heads of religious departments and as teachers and administrators on the faculty of the college constitute the performance of services in the exercise of their ministry.

In Revenue Ruling 72-606, 1972-2 C.B. 78, the Service considered whether a minister who served as the administrator of an old age home that was affiliated with a religious organization was eligible for the housing allowance provided under section 107 of the Code. The old age home designated an amount equal to the rent he actually paid as a rental allowance under section 107. The revenue ruling holds that the minister cannot exclude the rental allowance from his gross income under section 107 because the old age home is not an integral agency of a religious organization under the facts of ruling.

In Rev. Rul. 72-606, the Service established the following criteria to determine whether a church-related institution is an integral agency of a religious organization: (1) whether the religious organization incorporated the institution; (2) whether the corporate name of the institution indicates a church relationship; (3) whether the religious organization continuously controls, manages, and maintains the institution; (4) whether the trustees or directors of the institution are approved by or must be approved by the religious organization or church; (5) whether trustees or directors may be removed by the religious organization or church; (6) whether annual reports of finances and general operations are required to be made to the religious organization or church; (7) whether the religious organization or church contributes to the support of the institution; (8) whether, in the event of the dissolution of the institution, its assets would be turned over to the religious organization or church. The absence of one or more of these characteristics will not necessarily be determinative in a particular case.

Assuming for purposes of this letter ruling that the University is not a religious organization within the meaning of section 1.1402(c)-5(b)(2)(ii), the relevant issue is whether the University is an integral agency of a religious organization under the authority of a religious body constituting a church or a church denomination. After applying the criteria set forth in the rulings described above, we conclude that the University is an integral agency of the Denomination. The Denomination instigated and approved the University's reincorporation. The University is named in honor of the Denomination's founder and is the official regional school of the Denomination.

The Denomination exercises indirect control over the University. The Denomination's indirect control is somewhat different from the one exercised by the church in Rev. Rul. 70-549. In Rev. Rul. 70-549, the church appointed all of the trustees; the trustees and the teachers were required to be members in good standing of a congregation of the church. In this instance, the Denomination does not appoint each member of the Board; however, it does appoint 15 members that comprise a majority of the Board. Trustees may also be removed by a majority of the Board. The University's President is also a member of the Board and must be approved by the Board of Directors of the Denomination. Even though the trustees and the employees of the University are not required to be members of the Denomination, they must affirm their agreement with the Denomination's Statement of Faith and offer to resign if they no longer agree with it. The Denomination approves all amendments to the University's articles of incorporation, bylaws, and mission statement. Finally, the University teaches all subjects from a Biblical perspective and its graduate degree programs prepare men and women for positions as pastors, missionaries, and other religious posts. Accordingly, the Denomination exercises indirect control over the University.

The University also meets the financial and reporting criteria set forth in Rev. Rul. 72-606. The University is required to provide annual reports, financial statements, and annual audits to the Denomination. During the three fiscal years of , the University received aggregate contributions from the Denomination totaling

12.8% of the total gifts it received during that period. Finally, the Articles of Incorporation provide that if the University were to cease operations, dissolve, or terminate its affiliation with the Denomination without permission from the Denomination, the University's property would become property of the Denomination. Accordingly, we conclude that the University is an integral agency of the Denomination.

Under section 1402 and the applicable regulations, an ordained, commissioned or licensed minister who is performing services in the control, conduct or maintenance of an integral agency of a religious organization is engaged in performing services in the exercise of his ministry. Section 1.107-1 of the Income Tax Regulations provides that the rules of section 1402 apply in determining what duties constitute the duties of a minister of the gospel under section 107. Revenue Rulings 70-549 and 71-7 hold that ministers who serve on the faculty of a college that is an integral agency of a church, but do not perform any ecclesiastical duties are engaged in performing services in the exercise of their ministry and hence are eligible to exclude a portion of their compensation as a rental allowance under section 107 of the Code. Revenue Ruling 62-171 holds that that ordained ministers of the gospel who teach or have positions involving administrative and overall management duties in parochial schools, colleges or universities which are integral agencies of religious organizations are performing duties as ministers of the gospel for purposes of section 107 of the Code and hence are eligible to exclude a portion of their compensation as a rental allowance.

In the present case, the University is an integral agency of the Denomination. Accordingly, ordained, commissioned, or licensed ministers who teach or serve in faculty, executive, management, or administrative positions are performing services in the exercise of their ministry for purposes of section 107 of the Code. The ministers are therefore entitled to exclude from their gross income amounts that are properly designated as rental allowances under section 107 of the Code and the applicable regulations.

## CONCLUSION

On the basis of the foregoing, we conclude that the University is an integral agency of the Denomination such that properly designated rental allowances paid to faculty, managers, executives, or administrators who are ordained, licensed or commissioned ministers employed by the University can be excluded from gross income under Section 107.

Pursuant to Revenue Procedure 2007-1, §3.01(11), the Service has not considered, and does not express any opinion regarding whether any individual employed by the University is a minister of the gospel for federal tax purposes.

Except as specifically ruled on above, no opinion is expressed as to the application of any other provision of the Code to the facts described above.

This ruling is directed only to the organization which requested it. Section 6110(j) of the Code provides that it may not be used or cited as precedent.

Enclosed is a copy of the letter ruling showing the deletions proposed to be made when the letter is disclosed under section 6110 of the Code.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your representative.

Sincerely,

Janine Cook  
Branch Chief, Employment Tax Branch 1 (Exempt  
Organizations/Employment Tax/Government  
Entities)  
(Tax Exempt & Government Entities)